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SUBJECT: KENYA SUBMISSION FOR THE SEVENTH ANNUAL  
TRAFFICKING IN PERSONS REPORT

REF: 06 STATE 202745

11. (U) The following is Embassy Nairobi's submission for the Department's annual Trafficking in Persons Report (TIP). Information is keyed to the format provided in reftel.

12. (SBU) STATUS AND EXTENT OF HUMAN TRAFFICKING IN KENYA

#### 1I. Overview

##### 1A. Origin, Transit, and Destination

###### Origin

Kenya continues to be a country of origin for victims of human trafficking destined for the Middle East, other nations in Africa, and Europe and North America. Kenyan victims overseas often find themselves forced into domestic servitude, prostitution, service in massage parlors (where it is also believed they are forced into prostitution), casino work, and enslavement in brothels. Kenyans are generally trafficked to the Middle East as cheap laborers and household domestics, and as domestic and commercial sex workers to Europe.

###### Transit

The extent to which Kenya is utilized as a transit point for human traffickers continues to remain unclear. Kenya serves as a transit corridor for travel among Asia, the Middle East, Europe, and other African nations, which makes it an attractive location for human smugglers. Kenyan authorities believe Asians (mainly Chinese, Indian and Pakistani women) are being smuggled to European destinations via Nairobi, primarily to enter the commercial sex trade. South Asians are also believed to transit Kenya through established smuggling operations.

###### Destination

Evidence collected by local and international NGOs through first-person accounts and press reporting indicates that Kenya remains a destination for human trafficking victims. Although the issue of sex tourism trends along the Kenyan coast and in urban centers has been significantly highlighted by the media, a major UNICEF research report, and increased Government of Kenya (GOK) awareness, brothels and massage parlors continue to recruit TIP victims. Additionally, trafficking within Kenya, especially of child domestic workers, remains significant, but cultural practices and lack of awareness have slowed the Kenyan response.

###### More Research is Needed

Although there have been several studies on TIP in Kenya and the East African region, only the UNICEF report on child sex tourism was able to calculate the number of victims. (See

below.) All other research developed only anecdotal information about trafficking. No study has estimated even the order of magnitude trafficking has reached in Kenya.

The problem of human trafficking in Kenya has begun to attract attention from the media, the public, and the Kenyan Government, especially after the release of the joint UNICEF/Ministry of Home Affairs research report launched on December 19, 2006. "The Extent and Effect of Sex Tourism and Sexual Exploitation of Children on the Kenyan Coast" found that ten to fifteen thousand girls living in four main coastal resort areas are involved in casual sex work - up to 30 percent of all 12-18 year olds living in these areas. A further two to three thousand girls and boys, up to 45 percent of whom have migrated from other parts of the country, are involved in full-time year round commercial sex activity. 39 percent of the clients were Kenyan, followed by Italian (18 percent), German (14 percent) and Swiss (12 percent).

A 2006 study by the African Network for the Prevention and Protection of Child Abuse and Neglect (ANPPCAN) found that districts in Western Kenya were the main sources of trafficked children. Most traffickers were relatives, sometimes working as employment bureaus or prostitutes, who lured the children from rural homes with promises of a better life and education in towns. Most of the trafficked children found their way to Nairobi or coastal towns, where they were forced to work as household domestics or as commercial sex workers.

A late 2006 survey by NGO Behavior Change Plus Care on Humanity found that 60 percent of households in a the coastal town/district of Mwembe Tayari employed a domestic, 63 percent of whom were below 18 years of age. 85 percent of

the domestics surveyed said they were driven into domestic labor by poverty or were induced by a third party.

An Embassy-funded survey conducted in 2006 by the Kenyan Institute of Policy Analysis and Research (IPAR) interviewed 25 TIP victims randomly selected from Mombasa, Nairobi and Naivasha. IPAR researchers found that poverty, lack of employment opportunities, and "better life syndrome", especially in the coastal tourist resort areas, were the main push factors for TIP, facilitated by corruption. Eight of the 11 trafficking victims who met their traffickers at coastal resorts went back to sex work within six months of being rescued and deported from European countries for lack of alternative means of livelihood. The survey also revealed that eight of the 12 victims of international trafficking obtained their travel documents and passports after bribing government officials, either directly or through brokers.

Trafficking for commercial sex workers is being facilitated by changes in Kenyan sexual trends. Girls are having their first sexual experiences at an earlier age, and incidents of child abuse have significantly increased since 2000. A survey by Infotrak Research and Consulting in early 2007 of 2,400 young women found that 12 percent claim to have had their first sexual encounter by age 14, and 53 percent by age 17. 10 percent of the women polled said they had been sexually violated. Based on a study completed in early 2007, Kenyan NGO "The Cradle" reported that 40 percent of sexual abusers are neighbors, and that teachers, police officers, and pastors also ranked highly. Cradle reported that 92 percent of child victims knew their abusers.

A comprehensive survey on the human trafficking phenomenon in Kenya and throughout East Africa undertaken by the International Organization for Migration (IOM) will be available later this year. A number of Kenyan NGOs are also undertaking surveys into the human trafficking situation in Kenya and the region.

#### B. General Overview Inside Kenya

Despite general acknowledgement that internal trafficking is prevalent, there are still no statistics from the government

or NGOs to quantify the size of the problem. Victims are recruited by promises of employment or access to education and generally trafficked from rural to urban areas, and are put to work as domestic laborers or in the commercial sex trade. Victims are lured from their villages by relatives, friends or friends, or employment agencies. Traffickers target commercial sex workers, would-be foreign workers, street children, HIV/AIDS and other orphans, rural-to-urban migrants, and refugees. Women and children are particularly vulnerable. Poverty, unemployment, HIV/AIDS, and the low status of women are among the root causes that render victims vulnerable to traffickers.

Authorities and NGOs generally accept that Kenyan women play an active role in recruiting victims for internal trafficking, while foreigners and Kenyan men are involved in external trafficking. Black market foreign employment agencies, brothel owners, or massage parlor operators also traffic victims directly or benefit from established trafficking rings. Kenyan victims trafficked to foreign countries are lured through false marriage offers, fraudulent adoption, false travel documents, and deceptive employment schemes.

Examples of the government's growing political will to curb human trafficking and to better educate itself and the Kenyan people on the phenomenon are included throughout this report.

#### 1C. Limitations on GoK's Ability to Address TIP

As demonstrated throughout this report, there is a significant level of political will to address the problem of human trafficking. The GOK is making some progress in combating TIP. Post held meetings with senior government officials, especially the Criminal Investigations Department, the Kenya Police Service, the Ministry of Home Affairs, the Immigration Permanent Secretary, the Coast Province Provincial Commissioner, and the Ministry of Labour and Human Resource, all of whom have acknowledged the gravity of the problem. A GOK National TIP Task Force comprised of the above agencies has already met and is working with the International Organization on Migration (IOM) to develop a National Strategy and Action Plan. The Ministry of Home Affairs has taken the lead in organizing and coordinating activities at the District level, through the District Child Labor Committees. Having attended one such Committee meeting

in Mombasa, POL FSN is optimistic that if the vigor and participation of civil servants continue, there will be significant action taken to combat human trafficking.

The lack of employment opportunities continues to pressure Kenyans to seek employment in vulnerable contexts. Unemployment is estimated at 50 percent and more than 56 percent of the population survive on less than a dollar per day. The unique challenges posed by the HIV/AIDS epidemic and the attendant dramatic social consequences further undermine the government's ability to address trafficking. (NOTE: An estimated 6.1 percent of adult Kenyans are infected with HIV. The trend is expected to continue downward. END NOTE.)

The dearth of data on East African human trafficking trends continues to place constraints on the Kenyan government's ability to accurately assess the extent to which its citizenry is vulnerable to victimization by human traffickers. Further, resource constraints inhibit the government's ability to adequately track trends or identify potential TIP networks or smuggling rings. Other worthy issues, such as combating HIV/AIDS, compete with trafficking as the Executive considers budget priorities. Budget constraints and insufficient capacity generally dictate that the government detain and deport, rather than arrest and investigate. These same constraints often prevent Kenya from collaborating with "deportee nations" on follow-up investigations without significant donor community or "deportee nation" assistance. The competing demands on the police service to respond to increasing threats to security,

including violent crime, with the limited resources available continues to undermine law enforcement's ability to adequately address human trafficking. Additionally, a lack of TIP-related training among law enforcement and immigration officials further affects the government's ability to investigate cases of human trafficking. Corruption among law enforcement authorities and other officials also hampers the government's ability to effectively address human trafficking.

#### 1D. Inability to Monitor Anti-Trafficking Efforts

The government is unable to systematically monitor its anti-trafficking efforts due to lack of resources and capacity among the relevant agencies. However, the recent inter-ministerial meetings on TIP (see II.B) and the newly created Community Policing, Gender, and Children's Unit of the Kenya police (see III.H), should improve the government's ability to monitor and track anti-TIP efforts.

## II. PREVENTION

#### 1A. GoK Acknowledges TIP as Problem in Kenya

The GoK widely acknowledges that human trafficking is an issue affecting Kenya. Numerous national and local-level government officials have frequently spoken publicly about the dangers of human trafficking and sex tourism. Vice President Awori, whose portfolio includes the Ministry of Home Affairs, has participated in many public events calling for greater public awareness of child welfare issues, including trafficking.

#### 1B. Various Levels of GoK Involved in Anti-Trafficking Efforts

Numerous ministries have been involved in anti-trafficking efforts. The Government of Kenya is working with IOM to institutionalize efforts to combat trafficking in persons. On December 5, 2006, an inter-Ministerial meeting including the Office of the President, Home Affairs (MHA), Tourism and Wildlife, Foreign Affairs, Justice and Constitutional Affairs, Gender, and Education, plus the Police, and Attorney General agreed that MHA should lead the anti-TIP Steering Committee and the Task Force to draft a National Plan of Action.

The Attorney General's Office is doing the legal drafting on the Trafficking in Persons Bill submitted by NGOs in 2006. Although a recent TIP NGO Network meeting (attended by the Attorney General's representative who is responsible for the draft to parliament) was recently assured that the Bill would be ready by the end of the current year, this will be an uphill task, given the other equally crucial bills that are in queue for discussion by Parliament, and the upcoming December 2007 General Election.

The Ministry of Tourism and Wildlife and the Ministry of Home Affairs are actively involved in the implementation of the ECPAT Tourism Industry Code of Conduct Against Child Sex

Tourism. The ECPAT Code of Conduct against child sex tourism has been signed by about 30 hotels in the coastal tourist resort areas. In a recent meeting in Mombasa, the Kenya Association of Hotel and Caterers (KAHC) and local Government officials told Ambassador Ranneberger this represented the majority of Coast hotels, and that they wanted to expand the exercise to cover the entire country. NGOs and the Tourism Ministry are working together to present the Code to Nairobi establishments as well as other hotels in Kenya towns. The Tourism Ministry is trying to force owners of private beach cottages and villas that rent to tourists, especially in Malindi, to register as hotels, pay their license fees, and be subject to inspection, but owners are challenging this initiative in court. Tourists staying at these private establishments are widely suspected of engaging in child sex tourism with impunity. (See also III.M)

The Ministry of Labor helped to implement the USG-funded ILO-IPEC time bound program targeting four fields of child labor, all of which are TIP-susceptible. (See II.H) The

Kenyan Police Service (KPS) is involved through its Criminal Intelligence Unit (CID) and the newly created Community Policing, Gender, and Children's Unit. The Ministry of Labor, the Ministry of Foreign Affairs, and the Ministry of Home Affairs are engaged in the registration of both domestic and foreign employment agencies and the provision of foreign-worker counseling. All of those agencies, plus the Ministry of Education, Science, & Technology and the Ministry of Provincial Administration & Internal Security, are members of the inter-agency task force working with the IOM to develop and implement the GoK's National anti-TIP Strategy and Action Plan.

#### 1C. Public Awareness Campaigns

The GoK and local NGOs have widely disseminated anti-trafficking brochures, which include contact information for the 24-hour police hotline, the Police Children's Desks (present within nationwide police divisions), and several NGOs which facilitated victims' assistance. The Ministry of Labor also conducts workers' rights counseling for Kenyan nationals working abroad.

On the demand reduction side, the GoK supports wide-scale adoption of the ECPAT Code of Conduct against child sex tourism by the tourism industry to highlight the scourge of sex tourism in Kenya. In accepting the UNICEF study on CST, Vice President and Minister of Home Affairs Moody Awori squarely accepted the research as a real and factual description of a growing problem that must be publicly confronted. While tourism poses risks to children, the high proportion of Kenyan clients and widespread acceptance of CST showed the lack of support and protection for children in Kenyan society. Awori acknowledged the failure of police and communities to enforce Kenya's laws, and to sometimes treat exploited children as criminals rather than victims. In a clear call to end impunity for tourists, the VP urged police and communities to implement the Children's Act and other laws consistently, and not to protect child exploiters.

The government-owned Kenya Broadcasting Corporation, along side with the Kenya print and electronic media, have made significant inroads in highlighting TIP issues, contributing to increased public and government awareness of the problem. (See II.A.)

1D. The GoK Supports other Programs to Prevent Trafficking  
On January 5, 2007, Vice President and Minister of Home Affairs Moody Awori released new Child Welfare guidelines that create Area Advisory Councils in the country. The councils are to ensure that charitable children institutions are managed in line with stipulated regulations, affording children additional protections against human trafficking. The government's provision of free primary education nationwide and the Ministry of Education's "mobile schools program" all indirectly contribute to prevent vulnerable populations from falling victim to human traffickers. Women's empowerment programs funded through the parliamentary Constituency Development Fund serve to indirectly bolster the government's counter-trafficking efforts.

Further, due to concerns about the risk human trafficking poses to Kenyan nationals destined for work in the Middle East, the Office of Human Resources, Management, and Employment (OHRME), under the Minister of Labor, extended the mandate of its satellite office which seeks to track and assist Kenyan nationals employed in Saudi Arabia. Back home,

OHRME implements a notable program of education, awareness, and inspection for all Foreign Employment Agencies. This program is being expanded to include domestic employment agencies. The Children's Department in the Ministry of Home Affairs is supported by UNICEF to implement a cash subsidy project in select locations throughout Kenya targeting vulnerable children by improving the capacity of extended families to absorb and care for orphans, many of whom have lost parents to HIV/AIDS. The government and ILO-IPEC are also working to improve a database on abused children, particularly those who are working. (See II.H)



**¶E. GoK Cooperates with Civil Society to Address Trafficking**  
The GoK increasingly cooperates, and often partners, with civil society to combat human trafficking. Of particular note is the collaboration between the Attorney General's office and civil society in the preparation of new anti-trafficking legislation. Also noteworthy is the developing partnership between the government and IOM. The IOM project aims to assist the GoK and concerned stakeholders in their efforts to counter trafficking in human beings in Kenya through prevention, protection, and prosecution activities. Prevention activities will include a national public information campaign, an awareness raising campaign for youth, community level awareness raising and training for decision makers and community leaders, and training workshops for journalists. Protection and assistance to victims will be accomplished through the provision of comprehensive direct assistance to victims, the establishment of a national referral system, and capacity building for police, referral system members, and service providers. The ability of the GoK to identify and prosecute traffickers will be increased through targeted trainings for law enforcement and GoK agencies, and specialized training for prosecutors, members of the judiciary, and law enforcement agencies on utilizing existing legislation for countering human trafficking. (See II.B)

**¶F. GoK Monitors Immigration and Emigration Patterns**  
Immigration officials participated in the American Bar Association-sponsored training on human trafficking. The GoK utilizes TIP/PISCES software (provided by the USG) to scrutinize travelers who have been placed on a government-wide "stop list". IOM worked with the Ministry of Immigration to implement a USG-funded Capacity Building in Migration Management Project to improve the Ministry's capacity and professionalism. Additional IOM efforts focused on improving awareness of border security issues among relevant authorities. These programs also bolstered immigration officials' capacity to address human trafficking issues.

**¶G. GoK Mechanisms for Coordination with International and Multi-National Bodies**  
The Ministry of Home Affairs is taking the lead role among GoK agencies on TIP-related issues, including in the IOM-supported project to develop a national strategy and action plan to address TIP. (See II.B)

**¶H. GoK is Developing a National Plan of Action**  
The government does not yet have a formal national action plan on TIP, but is actively working with IOM to develop one. This lack results from diverse priorities competing for government attention and limited resources. (See II.B)

Additionally, the GoK, with assistance from ILO/IPEC, formulated a national strategy to combat child labor, (which also renders children vulnerable to human trafficking.) The program aims to overhaul existing labor-related policies and legislation by domesticating numerous international conventions, harmonizing existing domestic legislation, and enacting safeguards in sectors susceptible to child labor (and trafficking).

### III. Investigation and Prosecution of Traffickers

**¶A. Kenyan Anti-Trafficking Laws**  
While a comprehensive law which specifically addresses trafficking in persons is still in the drafting stages, the Sexual Offences Act, which came into effect on July 21, 2006 criminalizes any form of child trafficking and, for adults, trafficking for the purposes of sexual exploitation. In other cases of TIP, traffickers can theoretically be prosecuted under existing legal provisions.

One such case is currently being handled by the Kenya Police through the Criminal Investigations Department. The Kenya

Police is prosecuting two suspects who trafficked two

Ethiopian minors to Kenya. Note: A Deputy Commissioner of the Kenya Police Service and Director of the Community Policing, Gender and Child Protection Unit, (which is now the mandated Unit handling human trafficking issues) took a very active interest in this case. The Commissioner of Police gave firm instructions for swift action on the case albeit with some prodding from Post's TIP officer. End Note. The victims' ordeal was discovered by Global Child Hope, an NGO that had been given a TIP grant by Post. The two alleged traffickers arraigned and charged in court on February 22, 2007 under the Children's Act. Because of lack of a specific TIP law, they were charged under section 13 and 14 of the Children's Act, which protect a child from falling subject to trafficking and forcible early marriage. Penalties for both include maximum sentences of twelve months imprisonment and/or a fine of 50,000 KSh (USD equivalent 750).

Additionally, the Constitution of Kenya prohibits the practice of slavery. Further, the Penal Code prohibits the forced detention of women for the purposes of prostitution, and some trafficking offenses could be prosecuted under laws addressing child labor, abduction, attempted abduction, and the commercial and sexual exploitation of children. However, the GoK's limited investigative and prosecutorial capacity impedes use of these legal provisions to prosecute suspected traffickers to the fullest extent. While Post believes the GoK is now more willing to prosecute and act on cases of human trafficking, a specific legal framework is needed to provide the necessary tools for the justice system to successfully investigate, prosecute, and track all cases of human trafficking.

#### B. Penalties for Trafficking

The Sexual Offences Act imposes a minimum 15 years imprisonment and/or a fine of 2 million Ksh (USD equivalent 28,571) for trafficking for the purposes of sexual exploitation. The Act also imposes a minimum prison sentence of ten years and/or a fine of 2 million Ksh (USD equivalent 28,571) for child trafficking. Additionally, the Children's Act and the Penal code provide penalties for TIP related offences. (See III.A)

#### C. Punishment of Labor Trafficking Offenses

It is anticipated that the draft comprehensive TIP legislation would provide for the criminalization of labor trafficking and impose penalties.

#### D. Penalties for Rape

The Sexual Offences Act contains provisions about sexual offences, their definition, prevention, and the protection of all persons from harm from unlawful sexual acts and connected offences. It enhances protection of potential victims. The Act provides for a minimum 10-year sentence for rape and sexual assault. The Act also significantly increased the maximum penalties for defilement: if the victim is 11 years old or younger, the perpetrator is subject to life imprisonment; if the victim is between the ages of 12 and 15, there is a minimum sentence of 20 years; and if the victim is between the ages of 16 and 18, a minimum sentence of 15 years is imposed.

Historically, the prosecution of rape cases remains low due to cultural inhibitions, fear of retribution, and disinclination of police to intervene in domestic disputes. It is too soon to tell if the new law will encourage more women to come forward to report abuses.

#### E. Prostitution is Criminalized

Under Kenyan law, prostitution in and of itself is considered a misdemeanor. The Penal Code defines the "living on the earnings of prostitution, for both men and woman, as a misdemeanor. However, fines are limited and jail time is rarely imposed. The activities of brothel owners or operators are also criminalized as a misdemeanor; however, the activities of clients are not criminalized under Kenyan law. The draft TIP legislation seeks to correct this.

#### F. GoK's Limited Ability to Investigate and Prosecute

## Trafficking

The current legal and law enforcement structure makes compiling broad-spectrum statistics virtually impossible. Senior Police officials admit that many cases of trafficking go unprosecuted because police and police prosecutors need awareness and sensitization training to assist them in identifying cases of trafficking as such. Some NGOs allege that traffickers have bribed police to ignore or even protect their operations.

Immigration authorities are generally more involved in suspected trafficking cases. Immigration officials reported several cases of suspected trafficking during the course of the year covered in this report. Immigration officers arrested and charged 484 foreigners from 37 countries for being in the country illegally over the last two years. Some of these undocumented workers were likely trafficking victims, but the absence of a comprehensive TIP law makes it difficult to distinguish between human smuggling and trafficking.

### IG. Those Behind the Trafficking

Research, anecdotal evidence, and first-person accounts indicate that freelancers, members of organized crime syndicates, employment agencies, and marriage brokers are involved in trafficking. A 2006 study by the African Network for the Prevention and Protection of Child Abuse and Neglect (ANPPCAN) found that most traffickers of children were relatives, sometimes working as employment bureaus or prostitutes, who lured the children from rural homes with promises of better life and education in towns. Most domestic traffickers were female, and most international traffickers were male. The Institute of Policy Analysis and Research (IPAR) study found that most adult TIP victims are lured with offers of marriage, education, or job opportunities by the traffickers. All 25 victims interviewed were trafficked or introduced to traffickers by either friends or relatives. Ministry of Tourism officials believe that some tour operators may cater to sex tourists. (See II.B)

Foreign employment agencies have facilitated the trafficking of Kenyan nationals to Middle Eastern nations, notably Saudi Arabia, the United Arab Emirates, and Lebanon, as well as Germany, and collect profits from such trafficking. In May 2006, a group of Kenyan women were repatriated from Saudi Arabia, where they claimed the jobs they received were not as promised and/or they were mistreated and confined by their employers. There are no reports of government collusion in human trafficking. Kenyan Ministry of Foreign Affairs officials subsequently indicated they would advise Kenyan Embassies in the Middle East to take more interest in complaints from Kenyan guest workers.

### IH. Active Investigation of Trafficking

As of October 2006, the Human Trafficking Unit (HTU) of the Kenyan Police Service did not report any investigations into trafficking cases. However, in November 2006, Kenya shifted the HTU into a new Community Policing, Gender and Children's Protection Unit led by a Deputy Commissioner of Police. This new unit has been very engaged on the issue of human trafficking and in early 2007, filed its first charges against suspected traffickers. The alleged traffickers were arrested for child trafficking on February 11, 2007 and charged with forced marriage and forced labor. This may well be the first known trafficking in persons case that the Police have enthusiastically followed. IOM took charge of care and support for the two young victims, and the children were subsequently transported back to their family in Ethiopia. (See III.A)

In August 2006, two police officers based at the Endebess Police Station in Western Kenyan Trans-Nzoia District were suspended from duty for allegedly helping a suspected member of a child trafficking syndicate escape from custody. The accused trafficker was arrested for attempting to traffic an allegedly abducted child from Kenyan to Uganda. However, the officers were subsequently reinstated to active duty pending



disciplinary action from police headquarters and are believed to have been reassigned.

In November 2006, Kenya police arrested a Sri Lankan national for overstaying in the country. The press later reported he was the businessman behind the transportation into Kenya of six Sri Lankan youth who were discovered by the press living in Nairobi. The young men reportedly said they were lured by the man with promises of jobs in Cyprus, but were dumped in Nairobi while en route. The Kenya Police have not yet filed formal charges against the businessman.

The use of electronic surveillance, under-cover operations, and the use of informants are not prohibited under Kenyan law. Covert operations are permissible. In some instances, Kenyan law allows suspects to benefit from mitigated punishment or immunity in exchange for continued cooperation during ongoing investigations.

#### I. Specialized Trainings Provided

A human trafficking manual was developed by the regional East African chapter of the American Bar Association which will be used to institutionalize trafficking-related issues into training continuums for police, immigration, and registration officers. Government officials, prosecutors, and police also attended training workshops on human trafficking conducted by the American Bar Association.

The Ministry of Labor conducted workshops to sensitize domestic and foreign employment agencies on human trafficking issues. Chief Justice Evan Gicheru acknowledged the need for more training on human trafficking for legal and law enforcement authorities.

#### J. Cooperative Investigations

The GoK has expressed interest and willingness to cooperate with other nations in trafficking investigations.

#### K. GoK Extradition/Deportation of Traffickers

The GoK did not extradite nor deport persons charged with trafficking during the year covered by this report, though no provisions in Kenyan law prohibit such action. Nor is there any legal obstacle to the extradition of Kenyan nationals under Kenyan law.

#### L. GoK Does Not Tolerate Trafficking

There is not evidence to suggest that the GoK is in any way involved in or tolerates human trafficking.

#### M. Government Involvement

See III.L and III.H

#### N. Child Sex Tourism

There were no pedophiles prosecuted or deported this year. Kenya's child sexual abuse laws do not have extraterritorial coverage. UNICEF and the NGO End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT) have been working with the GoK and civil society to promote the adoption and implementation of the Code of Conduct for the Protection of Children from Sexual Exploitation for the tourism industry. The Ministry of Tourism and Wildlife's Hotel and Restaurant Authority (HRA), is supposed to inspect and annually license all hotels, lodges and restaurants, which are sites where child sex tourism is rampant at Coastal resorts. By August 2006, about 1,200 lodges, guest houses and villas that rent to tourists were registered. In February 2006, 30 hotels on the Coast, which is the destination of many of the tourists visiting Kenya, signed the ECPAT Code of Conduct. The Ministry of Tourism and Wildlife and the Kenya Association of Hoteliers and Caterers intend to see all hotel operators and other tourism and hospitality firms sign and implement the Code, but there were no further signups in 2006. The Ministry of Tourism and Wildlife plans to make implementation of the Code a condition for annual licensing of hotels, lodges and restaurants by the Hotel and Restaurant Authority.

Vice President and Minister of Home Affairs Awori publicly accepted the UNICEF report on child sex tourism in December 2006, urged wider hospitality industry participation in the ECPAT Code, and pledged the government would work with UNICEF to develop long-term strategies for child protection and social/behavioral changes. The 2006-2007 budget authorized the Ministry of Home Affairs Child Protection Department to hire an additional 160 children's officers, most of whom will be posted to the field.

#### 10. International Treaties

Kenya ratified the ILO Convention 182 on May 7, 2001. On September 8, 2000, Kenya signed the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography. Kenya acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime on January 5, 2005. On December 11, 2006, the Cabinet ratified the Hague Convention on international adoptions. The Cabinet also approved rules that protect children from being trafficked through adoption practices in the same period. Assistant Minister for Home Affairs Maalim Mohammed also announced that GOK had formed an Adoption Committee, which would vet and license all adoption societies.

#### IV. GOK Protection and Assistance to Victims

##### 1A. Victim Assistance Programs

The GoK's ability to develop assistance programs and provide services for victims of trafficking is severely limited due to insufficient capacity among government service providers, a dearth of resources, and insufficient training.

At a national level, the GoK does not specifically provide victims of human trafficking shelter, access to medical or social services, or afford temporary or permanent residence status. However, the government established shelters in Nairobi, Mombasa, and Kisumu to rehabilitate street children who have been vulnerable to forced labor and sexual abuse, but these centers are not exclusively for trafficked victims. The Government will work with IOM to establish a trafficking victims' shelter.

The government has also established District Advisory Children's Centers throughout the nation that are supposed to administer psycho-social services, medial and educational assistance, and foster programs for at-risk, orphaned, or abandoned children. Child victims are placed under the care of local level children officers and placed in child homes or rehabilitation schools, where they receive basic counseling services.

The government provides consular services to Kenyan nationals who have been victims of human trafficking seeking repatriation. Several civil society organizations provide repatriation assistance to trafficking victims in close collaboration with national-level governmental authorities. NGOs also provide trafficking victims with legal assistance, shelter, and medical and psychological services. In many instances, these NGOs work in consultation with local government authorities.

The GoK is quick to recognize the need for greater victim assistance programs; however, resource constraints inhibit greater development in this field.

##### 1B. GoK Assistance to NGOs

The GoK pays dues to IOM and ILO-IPEC.

##### 1C. GoK Screening and Referrals

While no formal screening or referral processes exist, NGOs providing victim assistance report good relations with local authorities who refer victims to their care. Local-level working relationships between government and civil society

are generally quite strong. The Kenyan Government needs to assist its nationals overseas.

#### 1D. Respect for Victim's Rights

Trafficking victims are reportedly not often treated as criminals. However, foreign victims discovered in Kenya are frequently detained for short periods of time and deported. They may also face immigration charges, such as unlawful presence or failure to produce a passport, each carrying a fine equivalent to USD 270 and/or a one-year jail sentence. The GoK facilitates consular assistance for foreign victims. Trafficking victims involved in prostitution can face both fines and prosecution, though in practice, they are frequently only fined. The fine for engaging in prostitution is KSH 1,300, approximately USD 17.50.

#### 1E. Victim Involvement in Prosecutions

Victims are able to assist the government in related investigations and prosecutions. Trafficked persons are able to file civil suits against pimps, but such action is rare in practice. Foreign victims are usually deported before conclusion of investigations due to a lack of resources, limited capacity, and an absence of trafficking related offenses for which victims could assist in the investigation and prosecution. General dysfunction and delays within the judiciary present a significant hurdle to accessing legal redress for victims. The draft anti-trafficking legislation would allow for victim restitution, which is not provided for under existing laws.

#### 1F. Witness Protection

With the passing of the Witness protection Bill in December 2006, formal witness protection programs are expected to be put in place by the government as soon as the Bill becomes Law, i.e., receives Presidential Assent. Protection will be arranged by the Attorney General on behalf of the Kenya Police and other law enforcement agencies. Some of the measures proposed include establishing a new identity for the witness and relocating the person and his family. If passed

into law, the High Court would have authority to order the appropriate officer to make new entries in the register of births, deaths or marriages.

#### 1G. GoK Training

(See III.D and III.I)

#### 1H. GoK Assistance to Repatriated Kenyans

The GoK does not provide direct financial assistance to repatriated victims. Shelter is not currently provided specifically for trafficking victims, however the government plans to do so in the future. (See IV.A) The GoK collaborates with civil society, as funds and resources allow, and based on the extent to which civil society or victims inform the government of a need for assistance or collaboration.

#### 1I. IOs and NGOs Assist Victims

There are a variety of NGOs active, to varying degrees, in human trafficking and trafficking-related issues. Most of these NGOs are engaged in the area of sensitization and concentrate their efforts on public awareness campaigns, gender equity issues, the economic advancement of women, and women's and children's advocacy and outreach. In November 2006, at the initiative of the U.S. Embassy, UNICEF and International Organization for Migration (IOM) agreed to establish and co-chair a donor working group (WG) to coordinate our efforts to address TIP and child protection issues in Kenya. The WG meets on a monthly basis and is expanding to include source and destination countries for trafficking.

Federation of Women Lawyers (FIDA-Kenya), Solidarity with Women in Distress (SOLWADI), CRADLE, and Solidarity with Daughters in Distress (SOLDIDI) work directly with trafficking victims and are active in the repatriation (both internationally and within Kenya) of trafficking victims and providing social and legal assistance. In addition, CRADLE and FIDA-Kenya are actively engaged in promoting legal reform

that would introduce a comprehensive trafficking-specific statute NGOs report positive working relations with the government. (See III.E)

13. (U) A. PolFSN Michael Kamau (rank FSN 10/11) spent approximately 127 hours in the preparation of this report. He can be reached at (254) 20-363-6276 (office) or (254) 722-515-293, fax: (254) 20-363-6281. The following individuals also contributed to preparation of this report: Pol Off Melissa Sweeney (rank: 03) spent 12 hours; Econoff (rank:01) spent 8 hours; PolCons (rank:02) spent .5 hours; USAID/Kenya Director and Democracy and Governance Officer spent .5 hours respectively.  
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